

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
THE BASU GROUP INC.,	:
	:
Plaintiff,	:
	:
v.	:
	:
SEVENTH AVENUE, INC.,	:
	:
Defendant.	:
-----X	

Civil Action No. 16-cv-00461-PGG
ECF CASE

**SECOND REQUEST FOR EXTENSION OF ORDER OF DISMISSAL
(WITH LEAVE TO RE-OPEN)**

WHEREAS, the trial of this action took place between July 16, 2018 and July 18, 2018;

WHEREAS, the jury returned its verdict in the Verdict Sheet of Dkt No. 141 of the docket of this action;

WHEREAS, the Court issued its Judgment at Dkt No. 142 of the docket of this action;

WHEREAS, the Court entered a Thirty (30) Day Order of Dismissal (Dkt No. 152) on August 17, 2018, giving the parties through and including September 17, 2018 (September 16th being a Sunday) to finalize their settlement discussions;

WHEREAS, the Court entered the parties' jointly submitted "First Request For Extension of Order of Dismissal (With Leave to Re-Open)" (Dkt No. 160), extending the pendency of the dismissal of this action, with leave to re-open, through and including October 16, 2018;

WHEREAS, the parties' executed their settlement agreement between them having an effective date of October 6, 2018, but one issue regarding performance remains to be resolved, and if it is not resolved, the non-performing party may be subject to a claim for breach;

WHEREAS, jurisdiction over such disputes regarding the agreement remain with this Court; and

WHEREAS, the parties have just learned of this issue on October 11, 2018 and represent to the Court that they have been trying, in good faith, to resolve the dispute before bringing it to the Court's attention in accord with the parties' continuing desire to avoid further legal fees and costs in this action;

NOW, THEREFORE, it is hereby stipulated by and between the parties, and **SO ORDERED** by the Court, based upon the parties' above representations, incorporated and made a part of this Order, that the Court's Order of Dkt No. 160 is hereby extended for an additional forty-five (45) days, so that the case is hereby dismissed without prejudice, with each party to bear its own costs and attorneys' fees; *except that*, any party may re-open the case by or before **November 30, 2018** should the dispute not be resolved, with the parties reserving their rights to bring post-trial JMOL motions and appeals, plaintiff reserving its right to bring a motion for attorneys' fees and costs of the action (the parties' JMOL motions and plaintiff's attorneys' fees and costs motion pursuant to Dkt No. 148), and plaintiff reserving its right to enforce the Judgment of Dkt No. 142.

If neither party seeks to re-open the case, then the case will be automatically converted to a dismissal with prejudice on December 1, 2018, with each Party to bear its own costs and attorneys' fees.

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Dated: October 15, 2018

Dated: October 15, 2018

SO ORDERED this 17th day of October, 2018.

Paul G. Gardephe
The Honorable Paul G. Gardephe, U.S.D.J.